

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ROME DIVISION**

LLOYD C. PEEPLES, III,

Plaintiff,

v.

CAROLINA CONTAINER, LLC,  
and WILLIAM PONDER,

Defendants.

Civil Action No. 4:19-cv-21-MLB

**JOINT STIPULATION AS TO AMOUNT AND  
CALCULATION OF PREJUDGMENT INTEREST AND  
JOINT REQUEST TO DELAY ENTRY OF JUDGMENT  
UNTIL AFTER MEDIATION**

COMES NOW, Plaintiff Lloyd Peeples (“Plaintiff”) and Defendant Carolina Container LLC (“Carolina Container”), by and through their respective counsel, and file this Joint Stipulation and Joint Request as follows:

**AMOUNT AND CALCULATION OF PREJUDGMENT INTEREST**

1. On September 1, 2022, the Court reiterated its ruling that “Plaintiff is entitled to prejudgment interest” and ordered the parties “to meet and confer in good faith on the amount of prejudgment interest

to which Plaintiff is entitled.” (Dkt. 196 at 19, 33) The Court ordered the parties to notify the Court if they “reach an agreement (as the Court expects).” (Dkt. 33.)

2. Carolina Container denies any liability to Plaintiff, denies that Plaintiff is entitled to prejudgment interest, intends to contest and appeal any judgment or final order in Plaintiff’s favor, including any judgment awarding prejudgment interest, and reserves all rights to contest and appeal any such judgment or final order.

3. With that understanding and reservation, and as ordered by the Court, Plaintiff and Carolina Container have met and conferred in good faith as to the amount of prejudgment interest to which Plaintiff would be entitled if the Court’s determination of liability and damages is entered in a final, appealable judgment or order and is not reversed or vacated on appeal and agree as to the computation and amount of prejudgment interest as follows:

a. Prejudgment interest is computed from the date that payment was due, meaning that prejudgment interest begins to run in this case as of July 3, 2018—i.e., when the Holdback Amount was due.

*See Citadel Holding Corp. v. Roven*, 603 A.2d 818, 826 (Del. 1992); (see Asset Purchase Agmt. [Dkt. 150-6] § 2.10(b)).

b. The Asset Purchase Agreement does not set the rate of prejudgment interest, but it holds that Delaware law applies to the agreement. (*See id.* at § 10.10(a); *see also* Dkt. 196 at 17-18.)

c. Under 6 Del. C. § 2301, “[w]here there is no expressed contract rate, the legal rate of interest shall be 5% over the Federal Reserve discount rate including any surcharge as of the time from which interest is due.” *See also Rexnord Indus., LLC v. RHI Holdings, Inc.*, 2009 WL 377180, at \*9 (Del. Super. Ct. Feb. 13, 2009) (“the rate of interest is calculated according to the Federal Reserve discount rate as of the date of commencement of interest liability and it remains fixed at that rate”).

d. As of July 3, 2018, the Federal Reserve’s discount rate was 2.5%; thus, the applicable prejudgment interest rate here is 7.5% based on 6 Del. C. § 2301.

e. When a 7.5% interest rate is applied to the \$1,710,000 principal amount, annual prejudgment interest is \$128,250.00 and daily prejudgment interest is \$351.37.

f. 1,532 days have passed as between July 3, 2018 and September 12, 2022.

g. Thus, as of September 12, 2022, prejudgment interest in this matter totals \$538,298.63, and it continues to increase by \$351.37 each day until judgment is entered.

Principal Amount	Interest Rate	Annual Interest	Daily Interest	# of Days as of Sept. 12, 2022	Interest Amount
\$ 1,710,000.00	7.50%	\$ 128,250.00	\$ 351.37	1,532	\$ 538,298.63

4. After judgment is entered in this matter, the applicable post-judgment interest rate is 12%. (*See* Dkt. 150-06 § 8.06; *id.* at definition of “Agreed Interest Rate”.)

#### **REQUEST FOR DELAY OF ENTRY OF JUDGMENT**

5. The parties are scheduled to mediate this case on October 28, 2022.

6. Absent a resolution of this case at mediation, Carolina Container may exercise its appellate rights.

7. Thus, in order to conserve party resources between the date of this filing and mediation, Carolina Container asked Plaintiff to agree to ask the Court to delay entering judgment in this case until seven (7) days after mediation.

8. Plaintiff agreed, subject to Carolina Container's agreement that post-judgment interest starts as of October 1, 2022, if mediation is not successful.

9. Carolina Container agreed to this condition.

10. Thus, Plaintiff and Carolina Container jointly ask the Court to delay entry of judgment in this matter until seven (7) days after the October 28, 2022 mediation, and, should judgment be entered, that post-judgment interest at 12% begin to accrue as of October 1, 2022.

Respectfully submitted, this 14<sup>th</sup> day of September, 2022.

**BRINSON, ASKEW, BERRY, SEIGLER,  
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***Attorneys for Defendant  
Carolina Container LLC***

**CERTIFICATE OF SERVICE**

I certify that I have this day served a copy of the foregoing  
**JOINT STIPULATION AS TO AMOUNT OF AMOUNT AND  
CALCULATION OF PREJUDGMENT INTEREST AND JOINT  
REQUEST TO DELAY ENTRY OF JUDGMENT UNTIL AFTER  
MEDIATION** with the Clerk of Court using the CM/ECF system,  
which will automatically send notification of such filing to the attorneys  
of record.

This 14th day of September, 2022.

By: /s/ I. Stewart Duggan